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UNITED STATES OF AMERICA

14 UNITED STATES DISTRICT COURT
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA
16 SOUTHERN DIVISION

17 UNITED STATES OF AMERICA,

18 Plaintiff,

19 v.

20 MICHAEL JOHN AVENATTI,

21 Defendant.
22

SA CR No. 19-061-JVS

AMENDED ORDER AUTHORIZING
DISCLOSURE OF TAX RETURNS AND
RETURN INFORMATION; AND AMENDED
PROTECTIVE ORDER LIMITING
DISCLOSURE OF PROTECTED TAX
INFORMATION AND SENSITIVE
INFORMATION

23 The Court having considered the stipulation and request for
24 (1) an order authorizing the disclosure of tax returns and return
25 information; and (2) an amended protective order limiting disclosure
26 of protected tax information and sensitive information filed by the
27 United States Attorney for the Central District of California
28 ("USAO") and Assistant United States Attorneys Julian L. André and

1 Brett A. Sagel, and defendant MICHAEL JOHN AVENATTI ("defendant"),
2 both individually and by and through his counsel of record, H. Dean
3 Steward (collectively, the "parties") in this matter, and good cause
4 appearing therefor, the Court hereby ORDERS as follows:

5 1. Pursuant to 26 U.S.C. § 6103(h)(4)(D), the government may
6 produce to counsel for defendant copies of tax returns and return
7 information obtained by the USAO during the course of the
8 investigation leading to the indictment and currently in the USAO's
9 possession.

10 2. In order to permit the government to provide discovery
11 material to counsel of record for defendant, while avoiding the
12 unauthorized dissemination, distribution, or use of tax returns and
13 return information, as well as personal identification information,
14 financial records, and other sensitive or confidential information
15 relating to third parties, including defendant's former clients or
16 employees ("Sensitive Information"), the parties have stipulated to
17 the entry of this Protective Order in the above-captioned case,
18 United State v. Michael John Avenatti, SA CR No. 19-061-JVS.

19 3. The term "Sensitive Information" includes, without
20 limitation, the names of alleged victims, witnesses, and other third
21 parties; dates of birth; social security numbers; driver's license
22 numbers; PIN numbers; bank or financial account information; taxpayer
23 identification information; tax information; home addresses; phone
24 numbers; email addresses; employment information; passwords;
25 attorney-client communications; and confidential legal information.

26 4. This Protective Order shall apply to all discovery
27 materials containing tax returns and return information (as defined
28 in 26 U.S.C. § 6103(b)(2)) and Sensitive Information (collectively,

1 the "Protected Information") that is produced to the defense team, as
2 defined below, before or after the execution of this Protective
3 Order.

4 5. For the purposes of this Order, the term "defense team"
5 refers to the counsel of record for defendant and any other defense
6 attorneys for defendant, defense investigators, retained experts or
7 potential experts, and paralegal and legal assistants providing
8 assistance on this case who have been advised of their obligations
9 under the Protective Order and agreed to follow its terms. The
10 "defense team," for the purposes of the Protective Order, includes
11 defendant. The "defense team" does not include family members and
12 other associates of defendant.

13 6. Defendant's undersigned counsel of record agrees to advise
14 all members of the defense team of their obligations under the
15 Protective Order and ensure their agreement to follow the Protective
16 Order, prior to providing members of the defense team with access to
17 any Protected Information.

18 7. The defense team, including defendant, shall use materials
19 containing Protected Information only for the preparation and
20 litigation of this matter and the additional litigation matters
21 identified in paragraph 8 below, and for no other purpose.
22 Litigation of this matter includes any appeal filed by defendant, and
23 any motion filed by defendant pursuant to 28 U.S.C. § 2255.

24 8. The defense team, including defendant, may disclose any
25 discovery produced in this case, including materials containing
26 Protected Information, to his defense counsel in the following
27 additional matters: (a) In re Michael J. Avenatti, Member No. 206929,
28 No. SBC-19-TE-30259-YDR (Cal. State Bar. Ct.); (b) United States v.

1 Avenatti, No. 1:19-CR-373 (S.D.N.Y.); and (c) United States v.
2 Avenatti, No. 1:19-CR-374 (S.D.N.Y.) (collectively, the "Additional
3 Matters"). Defendant may also use the discovery produced in this
4 case, including materials containing Protected Information, for
5 preparation or litigation of the Additional Matters.

6 9. Defendant and defendant's undersigned counsel of record
7 agree that any discovery produced in this case that defendant
8 provides to defendant's counsel in the Additional Matters shall be
9 subject to the terms of this Protective Order. Defendant's
10 undersigned counsel agrees that he shall advise defendant's counsel
11 in the Additional Matters of their obligations under the Protective
12 Order and ensure their agreement to follow the terms of this
13 Protective Order, prior to providing defendant's counsel in the
14 Additional Matters with access to any discovery produced in this
15 case, including any Protected Information.

16 10. To the extent defendant is obligated to do so, defendant
17 may produce to the opposing parties in the Additional Matters
18 discovery that the USAO produced in this case, including materials
19 containing Protected Information. Prior to producing any discovery
20 from this case to the opposing parties in the Additional Matter,
21 defendant's counsel shall notify the USAO in writing that such
22 materials are being produced and ensure that the opposing parties
23 have agreed follow the terms of this Protective Order.

24 11. Other than as set forth in paragraph 10 above, the defense
25 team, including defendant, shall not permit anyone who is not a
26 member of the defense team to retain in his or her possession any
27 materials containing Protected Information.

1 12. The defense team may review materials containing Protected
2 Information with witnesses or potential witnesses in this case
3 (including their counsel), but the witnesses or potential witnesses
4 may not retain any materials containing Protected Information after
5 his or her review of those materials with the defense team is
6 complete.

7 13. The defense team shall maintain all discovery materials
8 containing Protected Information safely and securely, and shall
9 exercise reasonable care in ensuring the confidentiality of those
10 materials.

11 14. To the extent that notes are made that memorialize, in
12 whole or in part, Protected Information, or to the extent that copies
13 of materials containing Protected Information are made for authorized
14 use by members of the defense team, such notes, copies, must be
15 handled in accordance with the terms of the Protective Order.

16 15. If a party needs to file materials with the Court
17 containing unredacted Protected Information or needs to divulge
18 Protected Information in court filings, such filings should be made
19 under seal. If the Court rejects the request to file such Protected
20 Information under seal, the party seeking to file such Protected
21 Information shall provide advance written notice to the other party
22 to afford such party an opportunity to object or otherwise respond to
23 such intention. If the other party does not object to the proposed
24 filing, the party seeking to file such information shall redact the
25 Protected Information and make all reasonable attempts to limit the
26 divulging of Protected Information.

27 16. Upon the final disposition of this case and the Additional
28 Matters identified in paragraph 8 above, materials containing

1 Protected Information shall not be used, in any way, in any other
2 matter, absent a court order. All materials containing Protected
3 Information maintained in the defense team's files shall remain
4 subject to the Protective Order unless and until such order is
5 modified by court order. Within thirty days of the conclusion of
6 appellate and post-conviction proceedings, the defense team shall
7 return any materials containing Protected Information to the USAO or
8 certify that such materials have been destroyed. Defense counsel is,
9 however, authorized to retain any such materials that defense counsel
10 is required to maintain under the California Rules of Professional
11 Responsibility or any other applicable rule of professional
12 responsibility.

13 17. In the event that there is a substitution of counsel prior
14 to when such documents must be returned, new defense counsel must
15 join this Protective Order before any materials containing Protected
16 Information may be transferred from the undersigned defense counsel
17 to the new defense counsel, who then will become the defense team's
18 custodian of the materials and who shall then become responsible for
19 returning all materials Protected Information to the government upon
20 the conclusion of appellate and post-conviction proceedings.

21 IT IS SO ORDERED.

22
23
24 October 03, 2019

25 _____
DATE



26 _____
HONORABLE JAMES V. SELNA
27 UNITED STATES DISTRICT JUDGE
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